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July 29, 2021

*Via ECF*

Hon. Katherine Polk Failla, U.S.D.J.  
40 Foley Square, Room 2103  
New York, NY 10007

**MEMO ENDORSED**

**Re: *Breaking Media, Inc. v. Jowers*, No. 1:21-mc-00194-KPF**

Dear Judge Failla,

We write on behalf of Petitioner Breaking Media, Inc. (“ATL”). We first wish to inform the Court that we received today the transcript of Your Honor’s July 8, 2021 oral decision (Dkt. 40), and we will be sending it to Respondent’s counsel. Second, during the July 8 proceeding the Court asked us whether ATL intended to seek additional attorneys’ fees for the time it incurred litigating its fee application. We do not; we will be filing a Proposed Judgment for the Court’s consideration shortly.

Lastly, we seek leave to supplement the record with copies of emails sent by Respondent’s counsel to ATL’s counsel: the first after briefing of ATL’s fees application was complete, the second after the Court’s July 8 decision. We do not intend to appeal the decision if Respondent does not. But the emails from Respondent’s counsel indicate that Respondent will appeal – and they show his counsel’s improper purpose in doing so. As with his previous emails (*see* Dkt. 37, at 3-4), we have not responded to opposing counsel’s gratuitous personal attacks. We simply ask that his latest emails be made part of the record in the event that Respondent does appeal.

As stated before, we do not act for Robert Kinney; we have never acted for Mr. Kinney or at his direction; we have never spoken with or met Mr. Kinney; and neither we nor our firm nor our client ATL has any involvement direct or indirect in the Texas action. ATL wishes to have nothing to do with it. The unjustified discovery that Respondent sought against ATL and that he also apparently sought against the Texas Federal Court’s admissions committee (similarly denied) were both premised on the same unjustifiable conspiracy theory. As these two emails indicate, that same conspiracy theory and Mr. Tauler’s vindictive purpose drive his threat to appeal.

Respectfully,

/s/David S. Korzenik  
David S. Korzenik

/s/Terence P. Keegan  
Terence P. Keegan

cc: Counsel of record via ECF

The Court is in receipt of Petitioner's request for leave to supplement the record. (Dkt. #41). If Respondent's counsel wishes to file a response to Petitioner's request, he shall do so by **August 11, 2021**.

Date: August 4, 2021  
New York, New York

SO ORDERED.

A handwritten signature in blue ink, reading "Katherine Polk Failla".

HON. KATHERINE POLK FAILLA  
UNITED STATES DISTRICT JUDGE